

## CHAPTER 1: GENERAL PROVISIONS

### 1.1 OVERVIEW

There are a number of activities related to the use, sale and development of land that have been determined by Federal and State law to be in the public interest for local government to oversee and regulate in order to bring about the safe, orderly creation (and maintenance) of communities. These include such activities as subdividing land into lots for sale, building structures, constructing roads, installing utilities, etc.

In order to effectively regulate these activities, communities are empowered to establish review and permitting processes. This document contains the review and permitting processes related to land development activities in Brian Head Town. In addition, other sections of the Brian Head Town Code that relate to land use and design standards are also included in this Title.

Chapters 6 and 7 of this Title constitute the Zoning Ordinance as contemplated in Title 10, Chapter 9a, Part 5 *et seq.*, of the Utah Code. Chapter 9 of this Title constitutes the Subdivision Ordinance as contemplated under Title 10, Chapter 9a, and Part 6 of the Utah Code, and other titles as applicable.

### 1.2 SHORT TITLE

This Ordinance shall be known as the Brian Head Land Management Code, also known as Title 13 of the Brian Head Code, and is herein referred to as "this Title." It may be cited and pleaded under either designation.

### 1.3 STATEMENT OF PURPOSE

The purposes of this Title, and any rules, regulations and specifications hereafter adopted are to promote the public health, safety and general welfare through provisions designed:

- a. To preserve the natural beauty and topography of Brian Head Town and to preserve the outstanding natural, cultural, or historical features, to ensure appropriate development with regard to these features and to assure the proper use and management of the natural beauty and resources of Brian Head;
- b. To guide future growth, provide for the harmonious and coordinated development of the Town (in conjunction with the Brian Head Town General Plan), and to protect and conserve the value of land throughout the Town and the value of buildings and improvements upon the land;
- c. To minimize the conflicts among the uses of land and buildings, and to prevent overcrowding of the land and undue congestion of population;
- d. To provide for efficient layout and use of building lots, roads and public services and utilities, recreational opportunities and open space;

- e. To provide for adequate light, air, view corridors, and privacy; to secure safety from fire, flood, land slides and other geologic hazards, and other dangers;
- f. To prevent the pollution or degradation of air, streams, and ponds; to ensure the adequacy of drainage facilities; to safeguard the water table; to minimize site disturbance, removal of native vegetation, and soil erosions; and to encourage and promote the conservation, wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and value of the land;
- g. To avoid scattered and premature subdivisions which would cause insufficient public services and facilities, or necessitate an excessive expenditure of public funds for the supply of such services and facilities;
- h. To inform the public of the requirements and conditions necessary to obtain approvals and permits to:
  - i. change or create property boundaries (subdivide land);
  - ii. construct or modify buildings, signs, structures or utilities;
  - iii. alter the land or landscape;
  - iv. create or modify zoning classifications for a property;
  - v. modify the General Plan.

## 1.4 INTERPRETATION

### 1.4.1 GREATER RESTRICTIONS PREVAIL

In their interpretation and application, the provisions of this Title shall be considered as minimum requirements. Where the provisions of this Title impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this Title shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this Title, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

### 1.4.2 DEFINITIONS

Whenever any word or phrase used in this Title is not defined herein, but is defined in related sections of the Utah Code or in the Brian Head Town Code, including chapter 2 of this Title, such definition is incorporated herein and shall apply as though set forth herein in full, unless the context clearly indicates a contrary intention. Unless a contrary intention clearly appears, words used in the present tense include the future, the singular includes the plural, the term “shall” is always mandatory and the term “may” is permissive.

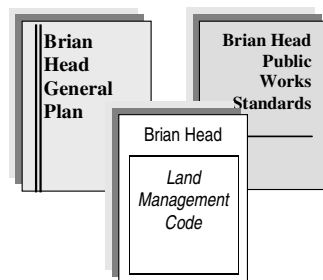
### 1.4.3 ADDITIONAL CONDITIONS MAY BE IMPOSED

Any development or construction activities shall require applications, fees, approvals, permits and compliance pursuant to this Title. To this end, all requirements, where possible, are expressly delineated in this Title or other applicable ordinances. However, since it is impossible to cover

every possibility and there are some aspects which do not lend themselves to being easily articulated, this Title allows the Planning Commission and the Town Council to impose reasonable conditions upon a developer in addition to those expressly set forth herein, so long as such conditions do not conflict with any requirements set forth in this Title or other applicable law.

## 1.5 COORDINATION WITH OTHER LAND USE DOCUMENTS

This Title, together with the Brian Head Town General Plan shall guide the use of all land within the corporate boundaries of the Town. The size and design of lots, the nature of utilities, the design and improvement of streets, the type and intensity of land use, and the provisions for any special facilities shall conform to the land uses shown in the Town General Plan and the standards established in this Title.



These 3 documents should be used in concert.

## 1.6 ALL APPROVALS MUST BE CONSISTENT WITH THIS ORDINANCE

All departments, officials and public employees of Brian Head Town who are vested with the duty or authority to issue permits or licenses shall do so in conformance with the provisions of this Title and shall issue no permit or license for uses, buildings, or purposes where the same would be in conflict with the provisions of this Title. Any such permit or license, if issued in conflict with the provisions of this Title, is void.

## 1.7 AMENDMENTS

The Brian Head Town Council may, from time to time, in a manner consistent with the Brian Head Town General Plan, amend any provision of the Land Management Code. However, amendments to this Title shall not be approved or final action taken until after the giving of public notice and the holding of public hearing(s), as may be required by Utah law and this Title.

## **1.8 NOTICE**

Whenever notice to adjoining property owners or the public is required by any Section of this Title, the notice shall be given in the following manner:

### **1.8.1 PUBLIC NOTICE**

Public notice of all public hearings and public meetings required to be noticed shall be given in accordance with Title 10, Chapter 9a, Part 2, Utah Code Annotated (as amended), as applicable. If notice of a public hearing is required to be given under Utah law, at least 21 calendar days prior to such public hearing, the notice shall be posted on the property affected by the application stating that an application concerning the development of that property has been filed, stating the date, time and place of the public hearing, and indicating that more detailed information concerning the application is available from Brian Head Town offices.

### **1.8.2 NOTICE TO ADJOINING PROPERTY OWNERS**

Where the provisions of Title 10, Chapter 9a, Part 2, Utah Code Annotated (as amended) requires notice of public hearings to be given to adjoining property owners, the applicant shall give such notice to those owners whose property is located entirely or partly within three hundred (300) feet from any boundary of the property subject to the application. Notice shall be mailed at least 21 calendar days prior to the public hearing to the address appearing on the last completed real property assessment rolls in the office of the Iron County Recorder. The notice shall include a vicinity map and letter stating that the application has been filed, the nature of the application, the time, place, and date of the public hearing on the application, and that more complete information is available at the Town Offices.

The applicant will provide a vicinity map, mailing list/labels of the owners of abutting properties located within three hundred feet (300') of the property lines of the land included in the application (also see Table 2 of Chapter 4) and their current mailing addresses available at the Iron County Recorder's Office. The mailing list shall be certified by a professional engineer, attorney, title company or similar qualified individual. The referral packet shall also include a vicinity map as defined in 4.2.3. The staff will prepare and mail referral packet to adjacent land owners as well as appropriate agencies. The mailing will be paid for by the applicant. The referral packet shall be mailed at least 21 days prior to the public hearing.

### **1.8.3 NOTICE TO CONDOMINIUMS**

In addition to the notice required under section 1.8.2, for condominium projects within the three hundred (300) foot radius from the applicant's property, notice shall also be given to the president of the condominium owners association and the property manager.

#### **1.8.4 DEFECTS IN NOTICE**

The notices to affected property owners are given as a convenience to them. Minor defects in mailing, or incomplete mailing, shall not be grounds for invalidating any permit or application, or for the delay of any public hearing unless the Planning Commission or Town Council shall find the defects in notice are such that the ability of interested persons to make a meaningful presentation of their concerns at the public hearing has been impaired. The Planning Commission or Town Council shall hear any objections raised relating to notice and rule on whether notice was adequate before proceeding to hear the merits of the application.